Federal Acquisition Regulation

37.202

assessment and evaluate, for award on that basis, any proposals received that reflect factors such as:

(1) Unrealistically low labor rates or other costs that may result in quality or service shortfalls; and

(2) Unbalanced distribution of uncompensated overtime among skill levels and its use in key technical positions.


37.115–3 Solicitation provision.

The contracting officer shall insert the provision at 52.237–10, Identification of Uncompensated Overtime, in all solicitations valued above the simplified acquisition threshold, for professional or technical services to be acquired on the basis of the number of hours to be provided.


37.116 Accepting and Dispensing of $1 Coin.

[72 FR 46362, Aug. 17, 2007]


This section implements Section 104 of the Presidential $1 Coin Act of 2005 (31 U.S.C. 5112(p)(1)), which seeks to remove barriers to the circulation of $1 coins. Section 104 requires that business operations performed on Government premises provide for accepting and dispensing of existing and proposed $1 coins as part of operations on and after January 1, 2008. Pub. L. 110–147 amended 31 U.S.C. 5112(p)(1)(A) to allow an exception from the $1 coin dispensing capability requirement for those vending machines that do not receive currency denominations greater than $1.

[60 FR 49722, Sept. 26, 1995, unless otherwise noted]

37.202 Exclusions.

The following activities and programs are excluded or exempted from the definition of advisory or assistance services:

(a) Routine information technology services unless they are an integral part of a contract for the acquisition of advisory and assistance services.
37.203 Policy.

(a) The acquisition of advisory and assistance services is a legitimate way to improve Government services and operations. Accordingly, advisory and assistance services may be used at all organizational levels to help managers achieve maximum effectiveness or economy in their operations.

(b) Subject to 37.205, agencies may contract for advisory and assistance services, when essential to the agency’s mission, to—

(1) Obtain outside points of view to avoid too limited judgment on critical issues;
(2) Obtain advice regarding developments in industry, university, or foundation research;
(3) Obtain the opinions, special knowledge, or skills of noted experts;
(4) Enhance the understanding of, and develop alternative solutions to, complex issues;
(5) Support and improve the operation of organizations; or
(6) Ensure the more efficient or effective operation of managerial or hardware systems.

(c) Advisory and assistance services shall not be—

(1) Used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;
(2) Used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;
(3) Contracted for on a preferential basis to former Government employees;
(4) Used under any circumstances specifically to aid in influencing or enacting legislation; or
(5) Used to obtain professional or technical advice which is readily available within the agency or another Federal agency.

(6) Limitation on payment for advisory and assistance services. Contractors may not be paid for services to conduct evaluations or analyses of any aspect of a proposal submitted for an initial contract award unless—

(1) Neither covered personnel from the requesting agency, nor from another agency, with adequate training and capabilities to perform the required proposal evaluation, are readily available and a written determination is made in accordance with 37.204;
(2) The contractor is a Federally-Funded Research and Development Center (FFRDC) as authorized in Section 23 of the Office of Federal Procurement Policy (OFPP) Act as amended (41 U.S.C. 419) and the work placed under the FFRDC’s contract meets the criteria of 35.017-3; or
(3) Such functions are otherwise authorized by law.

37.204 Guidelines for determining availability of personnel.

(a) The head of an agency shall determine, for each evaluation or analysis of proposals, if sufficient personnel with the requisite training and capabilities are available within the agency to perform the evaluation or analysis of proposals submitted for the acquisition.

(b) If, for a specific evaluation or analysis, such personnel are not available within the agency, the head of the agency shall—

(1) Determine which Federal agencies may have personnel with the required training and capabilities; and
(2) Consider the administrative cost and time associated with conducting the search, the dollar value of the procurement, other costs, such as travel costs involved in the use of such personnel, and the needs of the Federal agencies to make management decisions on the best use of available personnel in performing the agency’s mission.

(c) If the supporting agency agrees to make the required personnel available, the agencies shall execute an agreement for the detail of the supporting agency’s personnel to the requesting agency.

(d) If the requesting agency, after reasonable attempts to obtain personnel with the required training and